

MaineHealth Local Health Systems

Franklin Community
Health Network

LincolnHealth

MaineHealth Care At Home

Maine Behavioral Healthcare

Memorial Hospital

Maine Medical Center

NorDx

Pen Bay Medical Center

Southern Maine Health Care

Synernet

Waldo County General Hospital

Western Maine Health

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Care Organization

MaineHealth Affiliates

MaineGeneral Health

Mid Coast-Parkview Health

New England Rehabilitation
Hospital of Portland

St. Mary's Health System

Testimony of Elisabeth Erekson, MD MPH FACOG FACS In Support of LD 790

“An Act Clarifying Patient Consent for Certain Medical Examinations”

Tuesday, April 6, 2021

Senator Sanborn, Representative Tepler and distinguished members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services, I am Dr. Liz Erekson, Chair of the Department of Obstetrics and Gynecology at Maine Medical Center, and I am here to testify in support of LD 790, “An Act Clarifying Patient Consent for Certain Medical Examinations.”

MaineHealth is Maine’s largest integrated non-profit health care system that provides the full continuum of health care services to the residents of eleven counties in Maine and one in New Hampshire. As part of our commitment to meeting our vision of “working together so our communities are the healthiest in America,” MaineHealth’s 23,000 care team members work hard every day to provide high quality, efficient care to our patients, and we are proud that all of MaineHealth’s eligible hospitals recently received an “A” Safety Rating from the Leapfrog Group.

The intended goal of [Public Law, Chapter 602](#) was to protect patients in certain training contexts, but the law, as drafted, prohibits a health care provider from providing any pelvic, rectal, or prostate exam without written consent from the patient. This has the potential to delay or hinder access to care. As such, the bill before you today clarifies that verbal consent, not written consent, is needed before performing a pelvic, rectal, or prostate exam on a conscious patient.

As a provider, I am bound by ethical guidelines of informed consent and shared decision making. My success as a provider is based on mutual trust and respect with my patients and is achieved through individualized conversations and the mutual sharing of information. The current law, if interpreted to include written consent for a pelvic exam, interferes with the patient-provider relationship and holds these exams to a different standard than any other care, like a breast, heart, or lung exam.

As the chair of the department of OB GYN, I have an obligation to the training of providers to feel comfortable in the performance of pelvic examinations and to perform these exams in a professional and respectful manner, putting the

patient at ease. Adding barriers to providers' ability to perform necessary pelvic exams on patients will lead to delays in care and sub-optimal care. I worry that by requiring written consent, many primary care providers will stop performing these exams, when necessary.

For example, perhaps a patient, in the middle of an exam with their primary care provider, reports they are having vulvar irritation and asks their provider to take a look. This could prompt the provider to say, "I am legally required to get written consent to perform a pelvic exam. Let me go get this extra form." The patient might respond, "Don't go grab another form. I'll just address this later." I worry about the implications this would have in delays and omissions of care. This could lead to undiagnosed sexually transmitted infections, such as genital herpes, and delays in diagnosis in gynecologic cancers.

For those reasons, I urge the Committee to vote Ought to Pass on LD 790. Thank you and I would be happy to answer any questions you may have.